

THE CONSTITUTION OF JAMAICA

REGULATIONS

(Made under section 87 of the Jamaica (Constitution) Order in Council, 1959, preserved by section 2 of the Jamaica (Constitution) Order in Council, 1962)

THE POLICE SERVICE REGULATIONS, 1961

(Made by the Governor after consultation with the Police Service Commission, on the 1st day of June, 1961)

L.N. 96/61
Amd.
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[1st June, 1961.]

PART I—Preliminary

1. These Regulations may be cited as the Police Service Regulations, 1961. Short title.

2. In these Regulations unless the context otherwise requires—

Interpre-
tation.

“authorized officer” means the Commissioner or any other Officer not below the rank of Assistant Commissioner of Police or, except in relation to a member of or above the rank of Inspector, a commanding Officer;

“chairman” means the chairman of the Commission, and includes any member presiding at a meeting of the Commission;

“commanding Officer”, in relation to any member below the rank of Inspector, means the Officer in charge of the Division or other command to which the member is for the time being attached, or, in the absence or inability to act of that Officer, the Officer in charge of the branch or area to which that Division or command belongs, or an Officer deputed by him;

“Commission” means the Police Service Commission established by section 83 of the Order;

“Commissioner” means the Commissioner of Police;

“court” means a court of enquiry appointed under regulation 47;

“Force” means the Jamaica Constabulary Force;

“functions” includes powers and duties;

“member” except in Part II, means member of the Force;

“Officer” means any member holding any rank above that of Inspector;

Provided that where the voting is equal the chairman shall have a casting vote (as well as an original vote).

7.—(1) Minutes of all meetings of the Commission shall be duly recorded by the secretary and copies of such minutes duly confirmed at a subsequent meeting or by the individual members on circulation thereof shall as soon as practicable thereafter be forwarded to the Governor-General and to the Minister charged with the responsibility for the Police.

Record of meetings and decisions.

(2) Any member of the Commission present when any decision is made who dissents therefrom may require that his dissent and his reasons for dissenting be recorded in the minutes.

8. Matters may also be decided by the Commission without a meeting upon circulation of the relevant papers among the members; but if on circulation of the papers relating to any matter a difference of opinion arises among the members, or if any member so requires, it shall be the duty of the secretary to reserve the matter for discussion at a meeting.

Decisions otherwise than at a meeting.

9. The Commission in considering any matter or question may consult with any such public officer or other person as the Commission may consider proper and desirable and may require any public officer to attend and give evidence before it and to produce any official documents relating to such matter or question.

Consultation with other persons.

10. Any public officer who without reasonable cause fails to appear before the Commission when required to do so, or who fails to comply with any request properly made by the Commission, shall be guilty of a breach of discipline and the Commission may, where appropriate, recommend that disciplinary proceedings be instituted against him.

Failure to comply with request of Commission.

11.—(1) Except with the consent of the Governor-General signified in writing under the hand of the secretary a person shall not in any legal proceedings produce or be permitted to give evidence of the contents or nature of any document, communication or information addressed, made or given—

Privileged information; false information.

- (a) to the Commission by or on behalf of the Governor-General, the Commissioner, the Chief Personnel Officer, a Permanent Secretary or the head of any Government Department for the purpose of enabling the Commission to perform any of its functions; or

14. In order to perform its functions under regulation 13, the Commission shall supervise the selection of persons for admission to the Force, for the grant of study leave to members and for the award to members of scholarships for special training.

Supervision
of training.

15.—(1) From time to time as vacancies occur the Commission shall consider the eligibility of all members for promotion and in respect of every member shall take into account not only his seniority, experience and educational qualifications but also his merit, ability and good conduct.

Principles
of selection
for promo-
tion.

(2) In the performance of its functions under paragraph (1), the Commission shall take into account as respects each member—

- (a) his general fitness;
- (b) his seniority;
- (c) his basic educational qualifications and any special qualifications;
- (d) any special course of training that he may have undergone (whether at the expense of Government or otherwise);
- (e) markings and comments made in confidential reports by any officer under whom the member concerned worked during his service;
- (f) any letters of commendation in respect of any special work done by the member;
- (g) the duties of which he has had knowledge and experience;
- (h) the duties of the post for which he is a candidate;
- (i) any specific recommendation of the Commissioner for filling the particular posts;
- (j) any previous employment of his in the public service or the Force or otherwise;
- (k) any special reports for which the Commission may call.

(3) Notwithstanding anything in paragraphs (1) and (2), the Commission shall at all times give preference to members who have manifested superior intelligence and efficiency in the performance of their functions.

16.—(1) The procedure for making a recommendation in relation to an acting appointment as a prelude to a substantive appointment shall be the same as that prescribed in regulation 15. Every recommenda-

Principles
of selection
for acting
appoint-
ments.

for appointment to the Force and the composition of any such Board and the form in which its reports are to be submitted shall be decided by the Commission.

(2) On the consideration of any report of a Selection Board, the Commission may in its discretion summon for interview any of the candidates recommended by such Board.

20.—(1) In order to assist the Commission in performing its functions the Commissioner shall in each year furnish to the Commission confidential reports in respect of the twelve months immediately preceding—

Confidential reports.

- (a) the 1st day of November, upon all Officers and Inspectors;
- (b) the 1st day of January, upon all members holding the rank of Sergeant.

(2) In order to assist the Commissioner in performing his functions under this Part, the Officer in charge of each division or branch shall furnish to the Commissioner on the 1st day of January in each year confidential reports in respect of all members in that division or branch below the rank of Inspector other than constables who have not yet passed the promotion bar in their salary scale.

21. A member below the rank of Inspector who has been reduced in rank for misconduct—

Recommendation of members reduced in rank.

- (a) once, shall not be again promoted or recommended for promotion for a period of three years;
- (b) more than once, shall not be promoted or recommended for promotion save in the most exceptional circumstances.

22. Any member attempting to bring influence to bear on the Commission or the Commissioner (as distinct from making representations through the proper channels) for the purpose of obtaining promotion shall be disqualified for the position concerned.

Disqualification for attempting to use influence.

PART IV—Probationary Service and Termination of Appointments

23. In this Part—

- (a) paragraphs (2) and (3) of regulation 24 apply to Officers;
- (b) paragraph (4) of regulation 24 applies to Inspectors;
- (c) paragraph (5) of regulation 24 applies to members below the rank of Inspector;

Application of this Part.

render him a useful member of the Force, his services may forthwith be dispensed with by the Commissioner; and

- (b) at the end of the period aforesaid, if his services have not been dispensed with, be deemed to have been duly confirmed as respects his enlistment.

25.—(1) Where it appears to the Commissioner that pursuant to paragraph (b) of section 57 of the Act or pursuant to paragraph (b) of section 8 of the Pensions Act, as the case may be, a member who has attained the age of fifty years ought to be called upon to retire from the Force, the Commissioner shall report the matter together with his reasons therefor for consideration by the Commission, and the Commission shall recommend to the Governor-General whether or not that member ought to be called upon to retire. Premature retirement.

(2) Any such member shall be afforded an opportunity of submitting to the Commission any representations he may wish to make regarding his proposed retirement.

(3) A member may at any time after he attains the age of fifty years apply to the Governor-General for permission to retire pursuant to sub-paragraph (a) of paragraph (1) of section 56 of the Act or pursuant to paragraph (i) of subsection (1) of section 6 of the Pensions Act, as the case may be, and shall in his application state the grounds on which it is based.

(4) The Commission shall recommend to the Governor-General whether or not an application under paragraph (3) ought to be granted.

26.—(1) Notwithstanding the provisions of regulation 46 or regulation 47 where it is represented to the Commission or the Commission considers it desirable in the public interest that any member ought to be required to retire from the Force on grounds which cannot suitably be dealt with by the procedure prescribed by regulation 46 or regulation 47 it shall require the Commissioner to submit a full report. Retirement in the public interest.

(2) If after considering the report of the Commissioner and giving the member an opportunity of submitting a reply to the grounds on which his retirement is contemplated, and, having regard to the conditions of the Force, the usefulness of the member thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable in the public interest so to do, it shall recommend to the Governor-General that the member be required to retire on such date as the Commission may recommend.

29. Where the appointment of a member is terminated under regulation 25, 26 or 28 his service shall terminate on such date as the Commission may recommend and the question of his pension shall be dealt with in accordance with the provisions of the Act. Pension.

PART V—Discipline

A—GENERAL

30. Except where the contrary intention appears the provisions of this Part apply generally to the Force. Application of this Part.

31.—(1) The Commission in dealing with disciplinary proceedings against members shall take into consideration reports from the Commissioner. Functions respecting discipline.

(2) Subject to paragraph (5) where the Commission is of opinion that disciplinary proceedings ought to be instituted against a member of or above the rank of Inspector, the Commission may recommend to the Governor-General that such proceedings be instituted.

(3) Disciplinary proceedings against members below the rank of Inspector shall be instituted by or by direction of the Commissioner in the light of reports made to him, or otherwise.

(4) Subject to paragraph (5) the Commissioner where he is of the opinion that disciplinary proceedings ought to be instituted against a member below the rank of Inspector, may institute such proceedings or cause them to be instituted.

(5) Where an offence against any enactment appears to have been committed by a member the Commission, or as the case may be the authorized officer, before proceeding under this regulation shall obtain the advice of the Attorney-General or, as the case may be, of the Clerk of the Courts for the parish, as to whether criminal proceedings ought to be instituted against the member concerned; and if the Attorney-General or Clerk of the Courts advises that criminal proceedings ought to be so instituted, disciplinary proceedings shall not be initiated before the determination of the criminal proceedings so instituted.

32.—(1) Any report of misconduct on the part of a member shall be made to the Commissioner and dealt with under this Part as soon as possible thereafter. Regulations to govern disciplinary procedure.

which he would have received if he had not been interdicted; but if the proceedings result in any punishment other than dismissal the member shall be allowed such salary as the Commission may in the circumstances recommend or, as respects a member below the rank of Inspector, as the Commissioner may decide.

(4) A member who has been summoned or arrested on a criminal charge may be forthwith interdicted from duty or suspended from duty without pay and deprived of all uniform and other Government property in his possession. If admitted to bail he may be prohibited from living in a station but shall be permitted to earn his livelihood as if he were not a member.

(5) A member who is under interdiction or suspension from duty may not leave the Island without the permission of the Governor-General acting on the recommendation of the Commission and shall give to his Divisional Officer an address at which he may be found.

(6) All documents required to be served pursuant to these Regulations on a member who is under interdiction or suspension from duty shall be deemed to be properly served if sent by prepaid registered mail to the address given by that member in accordance with paragraph (5).

36. A member in respect of whom a disciplinary enquiry is to be held shall be entitled without charge to him to receive copies of or to be allowed access to any documentary evidence relied on for the purpose of the enquiry. He shall also be given a copy of the notes of the evidence (including copies of documents tendered in evidence) upon his applying therefor within thirty days of the decision of the court.

Copies of evidence of enquiries.

37. A member acquitted of a criminal charge shall not be dismissed or otherwise punished in respect of any charge of which he has been acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished in respect of any other charge arising out of his conduct in the matter, unless such other charge is substantially the same as that in respect of which he has been acquitted.

Disciplinary action after acquittal of a criminal charge.

38. If a member is convicted in any court of a criminal charge the Commission may consider the relevant proceedings of that court and if the Commission is of the opinion that the member ought to be dismissed or subjected to some lesser punishment in respect of the

Member convicted of a criminal charge.

(5) In making a recommendation for the suspension, deferment or withholding of an increment the Commissioner shall take into account the gravity of the original misconduct or dereliction of duty, if any, and the nature of the member's subsequent behaviour, or his present degree of efficiency; he shall bear in mind that—

- (a) "suspension" is to be applied when for any reason it is thought desirable to "reserve judgment" and allow for reformation or otherwise;
- (b) "deferment" is a substantial fine; and
- (c) "withholding" is a very serious penalty which deprives the member of the amount of that increment during each subsequent year of his service until he reaches the maximum of his scale.

(6) An increment may be deferred for a period not exceeding six months including any period for which it has been suspended, and shall be payable from the date on which it is restored.

(7) Where an increment has been withheld the Governor-General, acting on the recommendation of the Commission, may at any subsequent incremental date grant to the member concerned a special increment in addition to his ordinary increment.

42.—(1) Where—

- (a) the Commission has recommended or the authorized officer has directed that a member should be subjected to any disciplinary penalty; and
- (b) the member concerned desires to apply by virtue of the relevant provision of the Order for a reference to the Privy Council of that recommendation or direction,

Reference to
Privy
Council

the application shall be made within fourteen days of the date on which the member is informed of the recommendation or direction; and the recommendation or direction shall be referred accordingly.

(2) Only one reference to the Privy Council shall be allowed, unless new and material facts come to light which might have affected the former decision and adequate reasons are given for the non-disclosure of such facts at an earlier date.

(3) Notwithstanding the provisions of paragraphs (1) and (2) the Governor-General acting on the recommendation of the Commission or as the case may be, the Commissioner may suspend the member

not to be proceeded with he may in his discretion dismiss the charge, but if he thinks that the charge ought to be proceeded with he shall if he is not the Commissioner, report the member to the Commissioner or in the case of any minor offence specified in Part I of the Second Schedule may deal with the case summarily, and may impose a penalty on the member in accordance with these Regulations.

Second
Schedule.

(3) Where as a result of such investigation it is decided to charge the member with misconduct not warranting dismissal, the procedure to be followed shall be similar to that prescribed by regulation 47:

Provided that this paragraph shall not apply where any offence specified in Part I of the Second Schedule is dealt with summarily.

47.—(1) Subject to the provisions of these Regulations a member may be dismissed only in accordance with the procedure prescribed by this regulation.

Proceedings
for dis-
missal.

(2) The following procedure shall apply to an investigation with a view to the dismissal of a member—

- (a) the Commission or, in relation to a member below the rank of Inspector, the Commissioner (after consultation with the Attorney-General if necessary) shall cause the member concerned to be notified in writing of the charges and to be called upon to state in writing before a specified day (which day shall allow a reasonable interval for the purpose) any grounds upon which he relies to exculpate himself;
- (b) if the member (being of or over the rank of Inspector) does not furnish such a statement within the time so specified or he fails to exculpate himself the Governor-General shall on the recommendation of the Commission appoint a court of enquiry consisting of one or more persons (who may include the Commissioner, or other Officer) to enquire into the matter; the members of the court shall be selected with due regard to the rank of the member concerned, and to the nature of the charges made against him;
- (c) if a member below the rank of Inspector does not duly furnish such a statement as aforesaid or if he fails to exculpate himself the Commissioner shall appoint a court of enquiry (constituted as under sub-paragraph (b)) to enquire into the matter;

to the Governor-General what other penalty should be imposed;

- (l) if the Commission is of opinion that the member does not deserve to be dismissed by reason of the charges alleged, but that the proceedings disclose other grounds for removing him from the Force in the public interest, it may recommend to the Governor-General that an order be made accordingly, without recourse to the procedure prescribed by regulation 26.

(3) In relation to a member below the rank of Inspector references to the Commission in sub-paragraphs (g), (h) and (i) of paragraph (2) shall be construed as references to the Commissioner; and in relation to such an officer references in sub-paragraphs (j), (k) and (l) of that paragraph to recommendations which may or are to be made by the Commission to the Governor-General shall be construed as references to decisions which may or are to be made by the Commissioner.

48.—(1) An order for the holding of a court to investigate a charge against a member of or above the rank of Inspector shall be signed by the Governor-General.

Signature
and notifica-
tion of order
for holding
court.

(2) The order of the Governor-General or Commissioner appointing such a court shall be forwarded to the person named therein as president and a copy thereof shall be sent to the Officer in charge of the division or branch in which the member charged is stationed. The president shall then notify the members of the court named in the order of the time and place for the holding of the court and the Officer in charge of the division or branch shall so notify the authority preferring the charges and the member charged and furnish to each a copy of the charge, and the names of the president and members of the court, so as to enable the parties concerned to apply to the president for summonses for such witnesses as they may require.

49. When the court is assembled, the president shall read the charge or charges, and shall call upon the member charged to say whether he admits or denies them or any of them; the admission of any such charge shall be recorded in writing by or at the direction of the president and shall be signed by the member charged, and thereupon it shall not be necessary to hear evidence except as to the gravity of the offence or as to character, unless the court is of opinion that the evidence ought to be heard.

Reading of
charge and
taking of
plea.

them to be recorded in writing and reported to the Commissioner. It shall be the duty of the president to ensure that no unbecoming words are addressed to the member charged or to any witness and that every person attending the court is treated with proper respect and civility.

56. The president shall decide upon the admissibility of any evidence tendered, and as to the propriety of any question asked.

Admissibility
of evidence.

57.—(1) When all the evidence has been taken the president shall clear the court; he shall then record in writing the findings of the court as to whether the charges have or have not been proved and that record shall be signed by the members of the court who concur in the findings.

Findings of
the court.

(2) Any member of the court who dissents from the findings of the court shall record in writing his dissent and his reasons for dissenting and that record shall be transmitted to the Commission or, as the case may be, the Commissioner together with the report of the findings of the court.

58. The members of a court shall not disclose the findings of the court or the opinion of any particular member unless required by law to do so or in the discharge of any official duty.

Secrecy to
be observed
by members
of court.

59. A member of the court shall not—

- (a) communicate directly or indirectly with either party, except in the performance of his functions under these Regulations;
- (b) give or receive any opinion or communicate outside the court with anyone on the subject of the investigation.

Members of
court to
act im-
partially.

SECOND SCHEDULE (Regulation 46 (2) (3))

PART I—MINOR OFFENCES WHICH MAY BE DEALT WITH SUMMARILY

1. Absence from parade.
2. Leaving guards, patrols, beats or posts.
3. Irregular conduct when on duty or parade.
4. Being dirty or untidy in his person.
5. Being deficient of clothing or equipment.
6. Fighting or creating a disturbance.
7. Absence from barracks without leave.
8. Disrespect to seniors in rank.
9. Preferring frivolous complaints or charges.
10. Permitting females, not having lawful cause, to enter a Station.
11. Failing to comply immediately with an order.
12. Soliciting or receiving a gratuity.
13. Failing to take prompt measures for the arrest of an offender, or to make immediate investigation when called on.
14. Treating any prisoner or other person cruelly, harshly or with unnecessary violence, or without good and sufficient cause making any unlawful or unnecessary arrest.
15. Incivility to any member of the public.
16. Refusing or neglecting to pay any lawful debt.
17. Overholding any complaint or charge.
18. Oppressive or tyrannical conduct towards an inferior.
19. Drawing a revolver or bayonet for use without authority, except in self-defence.
20. Making any alteration or erasure in any public document, or in any official book or record for the purpose of fraud or deceit.
21. Making any false entry in any official book.
22. Omitting to make an entry in any official book as to the performance of any duty, matter or thing, which ought to be so entered.
23. Borrowing money directly or indirectly from or through any other member of the Force of inferior rank.
24. Gambling.
25. Prevarication before any court or any enquiry.
26. Entering spirit licensed premises while on duty, not being required there by any duty.
27. Idling or gossiping on duty.
28. Failing to report any matter, which it is his duty to report.
29. Any act, conduct, or neglect to the prejudice of good order and discipline, other than those which are required to be reported to the Commissioner of Police, whether or not such act, conduct or neglect has been in the execution of duty.